

Frequently Asked Questions

Accurate Information Returns Avoid Costly Penalties

Q: *What is an information return?*

A: An information return is a tax document, such as a W-2 or a 1099-MISC, that businesses are required to file to report certain business transactions to the Internal Revenue Service (IRS) and/or the Social Security Administration (SSA). The requirement to file Information Returns is mandated by the Internal Revenue Code and associated SSA regulations.

Q: *Who must file information returns?*

A: Any person, including a corporation, partnership, individual, estate, and trust, who makes reportable transactions during the calendar year must file information returns to report those transactions to the IRS and/or the SSA. Persons required to file Information Returns to the IRS and/or SSA must also furnish statements to the recipients of the income

Q: *When must information returns be filed?*

A: Generally, W-2s are due to the SSA and 1099s are due to the IRS by February 28 for transactions occurring in the previous calendar year.

Q: *What if I make a mistake on an information return?*

A: The Internal Revenue Code provides for the imposition of penalties in certain circumstances, unless *reasonable cause* is demonstrated. However, filing corrected information can lessen these penalties.

Q: *What constitutes reasonable cause?*

A: In general, reasonable cause is shown when the failure was due to an event beyond your control, or where there were significant mitigating circumstances.

Q: *What kinds of errors would result in a penalty?*

A: The penalties apply if you:

- ✓ Fail to file timely
- ✓ Fail to include all information required
- ✓ Include incorrect information
- ✓ Report an inaccurate TIN
- ✓ Fail to report a TIN
- ✓ File on paper when you are required to file on magnetic media
- ✓ Fail to file paper Forms that are machine readable

Q: *What is a TIN?*

A: A TIN is a taxpayer identification number. For individuals, this is usually the social security number (SSN). In some instances, e.g. a sole proprietorship, it may be the employer identification number (EIN).

Q: *If my worker doesn't have a TIN, how does he/she get one?*

A: He/she may apply for an SSN on Form SS-5, available at local SSA offices. Or he/she may apply for an EIN on Form SS-4, available by calling 1-800-TAX FORM, or on the IRS web site at www.irs.gov.

Q: *Can an individual taxpayer identification number (ITIN) issued by the IRS be used as a TIN for reporting wages?*

A: No, an ITIN can never be used to report earned income. All individuals eligible to work legally in the United States must have a valid SSN.

Q: *How can I tell if the number my worker gives me is a valid SSN or an ITIN?*

A: You can verify SSNs by using the SSA's free Employee Verification Service (EVS). ITINs may look similar to SSNs, in that they contain nine digits; however, ITINs begin with the number "9" and cannot be issued to individuals eligible to receive SSNs (i.e., individuals eligible to work legally in the United States.)

Q: *How much can these penalties cost me?*

A: The Code provides for penalties up to \$50 per incorrect/incomplete return, up to a maximum of \$250,000 a year (\$100,000 for small business with annual gross receipts less than \$5 million). If the failure is due to intentional disregard of the filing requirements, the penalty is at least \$100 per return, with no annual maximum. Additionally, conviction for willfully providing false or fraudulent statements can result in up to 1 year in jail.

Q: *What is meant by "intentional disregard?"*

A: Supplying information that you know, or have reason to know, is incomplete or incorrect. For example, if you are aware that your worker has used more than one TIN, or has provided a TIN that you have reason to know is invalid (e.g., one beginning with "9" or "000").

Q: *How can I avoid these penalties?*

A: A few common-sense steps can help you avoid the most common errors that may result in penalties:

- ✓ Ask each new worker for proof of his/her TIN (usually a Social Security card)
- ✓ Accurately record the TIN and name as provided by the worker in your payroll records
- ✓ Remind your workers to report any name changes due to marriage, divorce, etc., to both the Social Security Administration (SSA) and to you
- ✓ Use the SSA Employee Verification Service (EVS) prior to submitting W-2s to SSA for processing